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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW
(Legislative Department)

New Delhi, the 14th July, 1965/Asadha 23, 1887 (Saka)

The following President's Act is published for general information:—

THE KERALA ELECTRICITY DUTY (VALIDATION) ACT, 1965

No. 3 OF 1965

Enacted by the President in the Sixteenth Year of the Republic of India.

An Act to validate the levy and collection of duty on sales of electrical energy under the Travancore-Cochin Electricity Duty Act, 1950.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1965, the President is pleased to enact as follows:— 2 of 1965.

1. (*1*) This Act may be called the Kerala Electricity Duty (Validation) Act, 1965. Short title and commencement

(2) It shall come into force at once.

Definitions.

2. In this Act,—

(a) "duty" means the duty on sale of electrical energy;

(b) "repealed Act" means the Travancore-Cochin Electricity Duty Act, 1950, repealed by section 16 of the Kerala Electricity Duty Act, 1963.

Travancore-Cochin Act IV of 1950.

Kerala Act 23 of 1963.

Validation of levy and collection of duty on sales of electrical energy.

3. (1) Notwithstanding any judgment, decree or order of any court, all duties levied or collected or purporting to have been levied or collected under the repealed Act and the rules made thereunder before the 15th day of April, 1963, shall be deemed to have been validly levied or collected in accordance with law as if the provisions of the repealed Act and of the rules made thereunder, in so far as such provisions relate to the levy and collection of such duty had been included in, and formed part of, this section and this section had been in force at all material times when such duty was levied or collected; and accordingly,—

(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any duty paid under the repealed Act and the rules made thereunder;

(b) no court shall enforce a decree or order directing the refund of any duty paid under the repealed Act and the rules made thereunder; and

(c) any duty levied under the repealed Act and the rules made thereunder before the 15th day of April, 1963, but not collected, may be recovered in the manner provided under the repealed Act and the rules made thereunder.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any duty paid by him in excess of the amount due from him under the repealed Act and the rules made thereunder.

S. RADHAKRISHNAN,
President.

R. C. S. SARKAR,
Secy. to the Govt. of India.

Reasons for the enactment

In O.S. 104 of 1955, the District Judge, Trivandrum, held that section 9 of the Travancore-Cochin Electricity Duty Act, 1950, gave excessive authority to the executive to fix the rate of duty without laying down the maximum rate of duty that can be levied, that the rules made thereunder were *ultra vires* the Act and that therefore the assessments made on the strength of the rules were not legal. It is considered that an appeal against the decision of the District Judge may not be successful in view of a recent ruling of the Kerala High Court that leaving the fixation of rate of tax to a subordinate authority amounts to excessive delegation of legislative functions. It has, therefore, become necessary to enact a legislation to validate the levy and collection of electricity duty under the said Act and the rules made thereunder before the 15th April, 1963, (the date on which the Kerala Electricity Duty Act, 1963, which repealed the Travancore-Cochin Electricity Duty Act, 1950, came into force).

2. This enactment is intended for the above purpose.

3. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1965 (12 of 1965), has approved the enactment of this measure as a President's Act.

V. NANJAPPA,
Secretary to the Government of India,
Ministry of Irrigation and Power.

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